

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8724

Petition of New Cingular Wireless PCS, LLC,)
d/b/a AT&T Mobility, for a certificate of public)
good, pursuant to 30 V.S.A. § 248a, for the)
installation of telecommunications equipment in)
Lyndonville, Vermont)

Order entered: 5/18/2016

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the petition filed by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility (the "Petitioner"), pursuant to 30 V.S.A. § 248a and the Board's Amended Standards and Procedures Order ("Procedures Order"),¹ and grants the Petitioner a certificate of public good ("CPG") authorizing modifications to a telecommunications facility located in Lyndonville, Vermont (the "Project").

II. BACKGROUND

This case involves a petition and prefiled testimony filed on April 11, 2014, requesting that the Board issue a CPG approving additional *de minimis* modifications to an existing facility, pursuant to § 248a(b)(2).

On May 2, 2014, the Vermont Department of Public Service ("Department") filed a letter with the Board stating that the petition contained insufficient information to determine whether the Project qualified as a *de minimis* modification.

On May 5, 2014, the Petitioner submitted supplemental information in response to the Department's May 2 letter.

1. *Amended Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 10, 2011.

On May 8, 2014, the Department filed a letter with the Board recommending that, based on the supplemental information submitted by the Petitioner, the Board issue an Order approving the Project without further hearing or investigation.

On October 22, 2014, the Board issued a memorandum stating that the petition could not be further processed because it was internally inconsistent.

On April 14, 2016, the Petitioner submitted additional supplemental information in response to the Board's October 22 memorandum.

On May 5, 2016, the Department filed a letter with the Board recommending that the Board issue an Order approving the Project without further hearing or investigation.

No other comments or requests for hearing regarding the petition have been filed with the Board.

The Board has determined that the petition and prefiled testimony have effectively addressed the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project involves modifications to an existing telecommunications facility at 49 Sawmill Lane in Lyndonville, Vermont. Petition at Section B.

2. The Project involves the installation of six new panel antennas, each measuring approximately 72" by 14", at a centerline height of 109' on the existing 121' monopole tower. The Project also involves the installation of associated ancillary equipment. Petition at Sections B and B2; April 14 Supplemental Affidavit at 2.

3. The antennas and equipment will not extend above the tower, and will extend a maximum of approximately 8' horizontally from the tower. The net increase in aggregate surface area of the faces of the antennas and equipment to be attached to the tower is approximately 57 square feet. Petition at Section B; April 14 Supplemental Affidavit at 2.

4. The Project, excluding equipment, antennas, or ancillary improvements, does not increase the height or width of the existing structure. The Project will not increase the amount of

impervious surface at the existing facility site. Findings No. 2 and 3, above, and Petition at Section B.

IV. DISCUSSION and CONCLUSION

Pursuant to 30 V.S.A. § 248a(b)(2), *de minimis* modification means:

the addition, modification, or replacement of telecommunications equipment, antennas, or ancillary improvements on a telecommunications facility or existing support structure . . . , or the reconstruction of such facility or support structure, provided:

(A) the height and width of the facility or support structure, excluding equipment, antennas, or ancillary improvements, are not increased;

(B) the total amount of impervious surface, including access roads, surrounding the facility or support structure is not increased by more than 300 square feet;

(C) the addition, modification, or replacement of an antenna, or any other equipment on a facility or support structure does not extend vertically more than 10 feet above the facility or support structure and does not extend horizontally more than 10 feet from the facility or support structure;

(D) the additional equipment, antennas, or ancillary improvements on the support structure, excluding cabling, does not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the support structure by more than 75 square feet.

Pursuant to the Procedures Order at Section II:

For purposes of this definition, where the proposed ancillary improvements will be installed on, within, or at the base of a building, the ancillary improvements may be excluded from the aggregate surface area calculation in subsection (d) provided that: (1) the ancillary improvements comply with the limitations in subsection (c) measured from the outer walls of the building (for width) and the highest existing element of the building (for height); (2) the aggregate surface area of the antennas and equipment other than ancillary improvements does not exceed 75 square feet; and (3) any other additions, modifications, or replacements associated with the facility otherwise comply with subsections (a) and (b).

Further, pursuant to § 248a(k) and Section VIII of the Procedures Order, regarding *de minimis* modifications:

If no objections to the classification of the project are timely filed with the Board, a CPG shall be issued without further proceedings.

The proposed Project will consist of modifications to an existing telecommunications facility that, excluding equipment, antennas, or ancillary improvements, will not increase the height or width of the facility, and will not create impervious surfaces surrounding the facility. The net increase in aggregate surface area of the faces of the antennas attached to the existing tower will not exceed 75 square feet, and the antennas will not extend vertically or horizontally from the tower by more than 10 feet. Therefore, the Project qualifies as "*de minimis* modifications" to an existing facility pursuant to § 248a(b)(2). Further, no objection to the classification of the Project as *de minimis* modifications has been filed with the Board.

Based upon all of the above evidence, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that the modifications to the wireless telecommunications facility at the location specified in the above findings, by New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 18th day of May, 2016.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/Margaret Cheney</u>)	BOARD
)	
)	OF VERMONT
<u>s/Sarah Hofmann</u>)	

OFFICE OF THE CLERK

FILED: May 18, 2016

ATTEST: s/JUDITH C. WHITNEY
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.